

EXHIBIT A

Primary Reg. Dist. No. 110029206074 CERTIFICATE OF DEATH State File No.

1. Decedent's Legal Name (Include AKA's if any) (First, Middle, LAST, suffix)		2. Sex		3. Date of Death (Mo/Day/Year)	
BEVERLY MAXINE NEWMAN		Female		March 24, 2011	
4. Social Security Number	5a. Age (Years)	5b. Under 1 Year Months	5c. Under 1 day Hours	6. Date of Birth (Mo/Day/Year)	7. Birthplace (City and State or Foreign Country)
293-40-9705	66			June 27, 1944	CHILLICOTHE, OHIO
8a. Residence State	8b. County	8c. City or Town			
OHIO	ROSS	FRANKFORT			
9d. Street and Number	9e. Apt. No.	9f. Zipcode	9g. Inside City Limits?		
59 E. High Street		45628	No		
9. Ever in US Armed Forces?	10. Marital Status at Time of Death		11. Surviving Spouse's Name (If wife, give name prior to first marriage)		
No	Widowed (and not remarried)				
12. Decedent's Education	13. Decedent of Hispanic Origin		14. Decedent's Race		
HIGH SCHOOL GRADUATE OR GED	No		White		
15. Father's Name		16. Mother's Name (prior to first marriage)			
EARL SECREST		PANSY EVANS			
17a. Informant's Name		17b. Relationship to Decedent		17c. Mailing Address (Street and Number, City, State, Zip Code)	
CONARD NEWMAN		Son		10834 Westfall Road	
18a. Place of Death		18b. City or Town, State and Zip Code			
Son's Home		FRANKFORT, OHIO 45628			
18c. Facility Name (If not institution, give street & number)		18d. County of Death			
10834 Westfall Road		ROSS			
19. Signature of Funeral Service Licensee or Other Agent		20. License Number (of Licensee)		21. Name and Complete Address of Funeral Facility	
<i>[Signature]</i>		009233		EBRIGHT FUNERAL HOME	
22a. Method of Disposition		22b. Date of Disposition		22c. Location (City/Town and State)	
Burial		March 28, 2011		55 W SPRINGFIELD ST	
22d. Place of Disposition (Name of Cemetery, Crematory, or other place)		22e. Date Burial Permit Issued			
Greenlawn Cemetery		March 24, 2011			
23. Registrar's Signature		24. Date Filed		25a. Date Burial Permit Issued	
<i>[Signature]</i>		March 28, 2011		March 24, 2011	
25a. Name of Person Issuing Burial Permit		25b. District No.		25c. Date Burial Permit Issued	
MINER, DEBBIE		7100		March 24, 2011	
26a. Certifier (Check only one)		26b. Date Pronounced Dead (Mo/Day/Year)			
<input checked="" type="checkbox"/> Certifying Physician		March 24, 2011			
<input type="checkbox"/> Coroner		26c. License number			
		35.089168			
26d. Time of Death		26e. Signature and Title of Certifier		26f. Date Signed	
1:00 AM		<i>[Signature]</i>		3/25/2011	
27. Name (Last, First, Middle) and Address of Person who Completed Cause of Death					
DR JASON COLLINS, 798 North Court Street CIRCLEVILLE, OH 43113					
28. Part I. Enter the disease, injury, or combination that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heat stroke. List only one cause on each line. Type or print in permanent blue or black ink.					
Immediate Cause (Final disease or condition resulting in death)		a. Due to (or as Consequence of)		Approximate Interval Between Onset and Death	
Liver Failure				4 months	
Sequentially list conditions, if any, leading to immediate cause.		b. Due to (or as Consequence of)			
Enter Underlying Cause (Disease or injury that initiated events resulting in a death)		c. Due to (or as Consequence of)			
		d. Due to (or as Consequence of)			
Part II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I.					
30. Did Tobacco Use Contribute to Death?		31. If Female, Pregnancy Status		32a. Was An Autopsy Performed?	
<input checked="" type="checkbox"/> No <input type="checkbox"/> Yes <input type="checkbox"/> Unknown		<input checked="" type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant within 42 days of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to 1 year before death <input type="checkbox"/> Unknown if pregnant within the past year		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	
32b. Manner of Death		32c. Were Autopsy Findings Available Prior To Completion Of Cause of Death?		32d. Pending Investigation	
<input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Suicide		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		<input type="checkbox"/> Pending Investigation <input type="checkbox"/> Could not be determined	
33a. Date of Injury (Mo/Day/Year)		33b. Time of Injury		33c. Place of Injury (e.g., Decedent's home, construction site, restaurant, wooded area)	
33d. Location of Injury (Street and Number or Rural Route Number, City or Town, State)		33e. Injury at Work?			
		<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No			
33f. Describe How Injury Occurred:		33g. If Transportation Injury, Specify:			
		<input type="checkbox"/> Driver/Operator <input type="checkbox"/> Pedestrian <input type="checkbox"/> Passenger <input type="checkbox"/> Other			

Attn: Luke Feeney
770 6226

I HEREBY CERTIFY THIS DOCUMENT IS AN EXACT COPY OF THE RECORD ON FILE WITH THE OHIO DEPARTMENT OF HEALTH.

MR 28 11 01 27 11

[Signature]
DEBBIE MINER, LOCAL REGISTRAR
OFFICE OF VITAL STATISTICS
WITNESS MY SIGNATURE & SEAL

EXHIBIT B

bjs

2013 MAY 15 PM 1:15

IN THE COURT OF COMMON PLEAS, ROSS COUNTY, OHIO

BEVERLY NEWMAN;

Plaintiff

Case No. 08 CI 423

-vs-

BNC MORTGAGE, INC., et al.,

Defendants


ENTRY

This action came on for consideration before this Court on the 9th day of May, 2013. The plaintiff's counsel filed a suggestion of death in this action on February 7th, 2013. There has been no substitution of the plaintiff. Civil Rule 25 (A) requires substitution of a party within ninety days after death is suggested upon the record.

This action is dismissed without prejudice.

~~Costs to plaintiff.~~
The Clerk of the Court is hereby directed to serve a copy of this Judgment Order, and its date of Entry upon the Journal, upon all counsel of record and all parties not represented by counsel, by personal service or by U.S. Mail, and to note service on the Docket.

Judge Scott W. Nusbaum


SCOTT W. NUSBAUM
JUDGE, Common Pleas Court
Ross County, Ohio
Courtroom #2

Recipients of Journal Entry:

Mr. Joshua Goodwin
Attorney at Law
11 East Second Street
Chillicothe, OH 45601

Mr. Thomas J. Corbin
Attorney at Law
842 North Columbus Street
Lancaster, OH 43130

Ms. Peggy Lee
Attorney at Law
1005 East State Street, Suite 10
Athens, OH 45701

Mr. J. Kevin Cogan
Attorney at Law
P.O. Box 165017
Columbus, OH 43216-5017

Ms. Beverly Newman
59 East High Street
Frankfort, OH 45628

EXHIBIT C

IN THE COURT OF COMMON PLEAS, ROSS COUNTY, OHIO

CITIBANK, N.A., as Trustee
for BNC Mortgage Loan Trust
Series 2007-3,

2012 DEC 27 PM 12:56

CASE NO. 12 CI 397
ROSS COUNTY CLERK OF COURTS
TY D. HINTON

Plaintiff

VS.

JUDGE NUSBAUM


BEVERLY M. NEWMAN, et al.,

Defendants

**DEFENDANTS', CONRAD NEWMAN AKA LLOYD CONRAD NEWMAN, JR.
AND MARY E. NEWMAN, MOTION TO DISMISS PURSUANT TO CIVIL RULE 12(B)(6)**

Now comes Defendants, Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman, by and through counsel, and hereby moves the Court to dismiss the complaint as filed against them by the plaintiff in this matter. Specifically, Defendants, Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman, request that the Court dismiss the complaint pursuant to Civil Rule 12(B)(6) for failure to state a claim against Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman upon which relief can be granted. A memorandum in support of this motion follows.

Respectfully submitted,



STEPHEN K. SESSER (#0073705)

*Counsel for Defendants, Conrad Newman aka
Lloyd Conrad Newman, Jr. & Mary E. Newman*
42 E. Fifth Street
Chillicothe, Ohio 45601
740-774-2142

MEMORANDUM IN SUPPORT OF MOTION

1. Introduction

On or about September 10, 2012, plaintiff filed an amended complaint for foreclosure. This complaint for foreclosure was filed against the property owner, Beverly M. Newman, as well as her son, Conrad Newman aka Lloyd Conrad Newman, Jr. and his wife, Mary E. Newman. Beverly M. Newman died on March 24, 2011 (see Suggestion of Death attached hereto as Exhibit "A"). Furthermore, the Court can take judicial notice that the original complaint for foreclosure in this matter occurred on July 2, 2012, approximately one (1) year and four (4) months after the death of Beverly M. Newman.

On or about October 9, 2012, Defendant, Conrad Newman aka Lloyd Conrad Newman, Jr., requested a motion for extension of time to file an Answer, signing as the Executor of the Estate of Beverly M. Newman. At the time of filing this motion for extension of time, Defendant Conrad Newman aka Lloyd Conrad Newman, Jr., was unrepresented by counsel and was attempting to handle these matters pro se. After meeting with counsel, Conrad Newman aka Lloyd Conrad Newman, Jr. was advised of his rights. When Mr. Newman filed the motion for extension of time to file an Answer he was **not** the Executor of the Estate of Beverly M. Newman. However, defendant Conrad Newman aka Lloyd Conrad Newman, Jr. was named as a beneficiary in Beverly M. Newman's will. In fact, defendant Conrad Newman aka Lloyd Conrad Newman, Jr. was granted a one-third (1/3) interest in the Estate of Beverly M. Newman. The other two-thirds (2/3) were to be divided by Beverly M. Newman's daughter, Tammy Dixon and the final third to be divided equally among her three (3) grandchildren. No probate estate has ever been opened in the matter of Beverly M. Newman. No Executor has ever been named in the Estate of Beverly M. Newman. Accordingly, since Conrad Newman aka Lloyd Conrad Newman,

Jr. was never made the Executor of the Estate of Beverly M. Newman, his filing of a motion for extension of time to file an Answer is a legal nullity. He had no authority in which to file a motion for extension of time to file an Answer nor is he seeking appointment by the Probate Court to be made the Executor in the Estate of Beverly M. Newman.

In the amended complaint filed by Plaintiff, Plaintiff names Conrad Newman aka Lloyd Conrad Newman, Jr. and his spouse, Mary E. Newman, as parties that have a claim of interest in the premises that are being foreclosed upon. Interestingly, Plaintiff fails to name Tammy Dixon and the three (3) grandchildren as additional Defendants in its amended Complaint. Furthermore, simply being named in a will does not create an interest in real property.

Plaintiff seeks judgment against Beverly M. Newman on a note in the approximate amount of \$49,750.31. Defendants Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman are not signors or guarantors of the note upon which the Plaintiff is seeking judgment.

Accordingly, Defendants Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman, have no current claim in interest to the premises that are involved in this foreclosure action. No estate has been opened nor will an estate be opened by any of these Defendants.

Therefore, plaintiff's complaint should be dismissed against Defendants, Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman, because they have no interest in the property that is the subject of this litigation, nor do they have any liability with regard to the note associated with the property that is the subject of this litigation.

Although the Plaintiff is well aware that Beverly M. Newman is deceased, counsel for Defendants Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman, have filed a Suggestion of Death and attached a copy of the death certificate to that Suggestion of Death. As a result, the complaint fails to state a claim upon which relief can be granted and should be

dismissed pursuant to Civil Rule 12(B)(6).

2. Standard of Review

The trial court should dismiss the cause of action for failure to state a claim for relief pursuant to Rule 12(B)(6) of the Ohio Rules of Civil Procedure when it appears beyond doubt from the pleading that the plaintiff can prove no set of facts warranting relief. See *State, ex rel. Jennings v. Nurre* (1995), 72 Ohio St 3d 596, 597. In making this determination, the general rule is that a factual allegation of a complaint is presumed to be true and all reasonable inferences are made in favor of the non-moving party. *Id.*

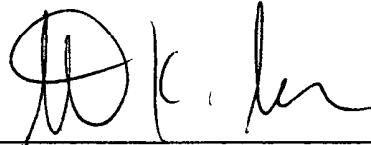
However, in determining a motion to dismiss for failure to state a claim, the Court need not assume truth of conclusions which are not supported by factual allegations, see *Garofalo v. Chicago Title Company*, (1995), 104 Ohio App.3d 95. Moreover, unsupported conclusions of a Complaint are not considered admitted and are not sufficient to withstand a motion to dismiss for failure to state a claim upon which relief can be granted. *Spaulding v. Coulson*, (1995), 104 Ohio App.3d, 62.

Thus, unsupported conclusions alleged in the complaint are not presumed to be true and are not sufficient to withstand a motion to dismiss. See *State, ex al. v. Capots*, (1989) 45 Ohio St 3d 324; *Mitchell v. Lawson Milk Company*, (1988), 40 Ohio St 3d 190.

Plaintiffs have merely filed a complaint suggesting that Defendants Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman have some sort of claim or interest in the premises. However, they have failed to provide **any** documentation which would support this accusation. A simple search of the Probate Court records would also conclude same.

Accordingly, this Court should dismiss the claims against the Defendants Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman pursuant to Civil Rule 12 (B)(6).

Although counsel for Defendants Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman **does not** represent Beverly M. Newman (deceased), it should be noted pursuant to Civil Rule 25, that unless a substitution of party is made with regard to a deceased party within ninety (90) days after the death is suggested upon the record, the action **shall** be dismissed as to the deceased party. See Civ. R. 25(A).



STEPHEN K. SESSER

*Counsel for Defendants, Conrad Newman aka
Lloyd Conrad Newman, Jr. & Mary E. Newman*

CERTIFICATE OF SERVICE

A copy of the foregoing was served upon the following by U.S. regular mail on this 26th day
of December, 2012:

Peter L. Mehler, Esq.
Reimer, Arnovitz, Cherek & Jeffrey Co., L.P.A.
P.O. Box 968
Twinsburg, Ohio 44087

Nicole R. Randall
Assistant Attorney General
150 E. Gay Street, 21st Floor
Columbus, Ohio 43215



STEPHEN K. SESSER

*Counsel for Defendants, Conrad Newman aka
Lloyd Conrad Newman, Jr. & Mary E. Newman*

Exhibit "A"

IN THE COURT OF COMMON PLEAS, ROSS COUNTY, OHIO

**CITIBANK, N.A., as Trustee
for BNC Mortgage Loan Trust
Series 2007-3,**

CASE NO. 12 CI 397

Plaintiff

VS.

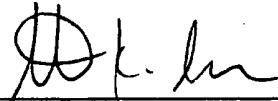
JUDGE NUSBAUM

BEVERLY M. NEWMAN, et al.,

Defendants

SUGGESTION OF DEATH

The undersigned, counsel for defendants, Conrad Newman aka Lloyd Conrad Newman, Jr. and Mary E. Newman, hereby gives notice to the court that Beverly Maxine Newman died on March 24, 2011 (see attached copy of death certificate).



STEPHEN K. SESSER (#0073705)
*Counsel for Defendants, Conrad Newman aka
Lloyd Conrad Newman, Jr. & Mary E. Newman*
42 E. Fifth Street
Chillicothe, Ohio 45601
740-774-2142

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Assistant Attorney General
150 E. Gay Street, 21st Floor
Columbus, Ohio 43215



STEPHEN K. SESSER

*Counsel for Defendants, Conrad Newman aka
Lloyd Conrad Newman, Jr. & Mary E. Newman*

Registar's No. 7100201600117

CERTIFICATE OF DEATH

State File No.

1. Decedent's Legal Name (include AKA's if any) (First Middle, LAST, suffix) BEVERLY MAXINE NEWMAN		2. Sex Female	3. Date of Death (Mo/Day/Year) March 24, 2011
4. Social Security Number 293-40-9705	5a. Age (Years) 66	5b. Under 1 Year Months	5c. Under 1 day Hours Minutes
6. Date of Birth (Mo/Day/Year) June 27, 1944		7. Birthplace (City and State or Foreign Country) CHILLICOTHE, OHIO	
8a. Residence State OHIO		8b. County ROSS	
8c. City or Town FRANKFORT		8d. Apt. No.	8e. Zipcode 45628
8f. Inside City Limits?		8g. Inside City Limits?	
9. Ever in US Armed Forces? No		10. Marital Status at Time of Death Widowed (and not remarried)	
11. Surviving Spouse's Name (if wife, give name prior to first marriage)			
12. Decedent's Education HIGH SCHOOL GRADUATE OR GED		13. Decedent of Hispanic Origin No	
14. Decedent's Race White			
15. Father's Name EARL SECREST		16. Mother's Name (prior to first marriage) PANSY EVANS	
17a. Informant's Name CONARD NEWMAN		17b. Relationship to Decedent Son	
17c. Mailing Address (Street and Number, City, State, Zip Code) 10834 Westfall Road FRANKFORT, OHIO 45628			
18a. Place of Death Son's Home		18b. City or Town, State and Zip Code FRANKFORT, OH 45628	
18c. County of Death ROSS			
19. Signature of Funeral Service Licensee or Other Agent <i>[Signature]</i>		20. License Number (of licensee) 009233	
21. Name and Complete Address of Funeral Facility EBRIGHT FUNERAL HOME 55 W SPRINGFIELD ST FRANKFORT, OH 45628			
22a. Method of Disposition Burial		22b. Date of Disposition March 28, 2011	
22c. Place of Disposition (Name of Cemetery, Crematory, or other place) Greenlawn Cemetery		22d. Location (City/Town and State) FRANKFORT, OH	
23. Registrar's Signature <i>[Signature]</i>		24. Date of Death March 28, 2011	
25a. Name of Person Issuing Burial Permit MINER, DEBBIE		25b. District No. 7100	
25c. Date Burial Permit Issued March 24, 2011			
26a. Certifier (Check only one) <input checked="" type="checkbox"/> Certifying Physician To the best of my knowledge, death occurred at the time, date, and place, and due to the cause(s) and manner stated. <input type="checkbox"/> Coroner On the basis of examination and/or investigation, in my opinion, death occurred at the time, date, and place, and due to the cause(s) and manner stated.		26b. Time of Death 1:00 AM	
26c. Date Pronounced Dead (Mo/Day/Year) March 24, 2011		26d. Was case referred to coroner? No	
26e. Signature and Title of Certifier <i>[Signature]</i> DR JASON COLLINS, 798 North Court Street CIRCLEVILLE, OH 43113		26f. License number 35.089168	
26g. Date Signed 3/25/2011			
27. Name (Last, First, Middle) and Address of Person who Completed Cause of Death DR JASON COLLINS, 798 North Court Street CIRCLEVILLE, OH 43113			
28. Part I. Enter the disease, injuries, or complications that caused the death. Do not enter the mode of dying, such as cardiac or respiratory arrest, shock, or heart failure. List only one cause on each line. Type or print in permanent blue or black ink.		Approximate Interval Between Onset and Death	
Immediate Cause (Final disease or condition resulting in death) Liver Failure		4 months	
Sequentially list conditions, if any, leading to immediate cause. a. Due to (or as Consequence of)			
b. Due to (or as Consequence of)			
c. Due to (or as Consequence of)			
Enter Underlying Cause (Disease or injury that initiated events resulting in a death) d. Due to (or as Consequence of)			
Part II. Other significant conditions contributing to death but not resulting in the underlying cause given in Part I.			
30. Did Tobacco Use Contribute to Death? <input type="checkbox"/> Yes <input type="checkbox"/> Unknown <input checked="" type="checkbox"/> No <input type="checkbox"/> Probably		31. If Female, Pregnancy Status <input checked="" type="checkbox"/> Not pregnant within past year <input type="checkbox"/> Pregnant at time of death <input type="checkbox"/> Not pregnant, but pregnant within 43 days of death <input type="checkbox"/> Not pregnant, but pregnant 43 days to 1 year before death <input type="checkbox"/> Unknown if pregnant within the past year	
32a. Was An Autopsy Performed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No		32b. Were Autopsy Findings Available Prior To Completion Of Cause of Death? <input type="checkbox"/> Yes <input type="checkbox"/> No <input type="checkbox"/> Not Applicable	
32c. Manner of Death <input checked="" type="checkbox"/> Natural <input type="checkbox"/> Accident <input type="checkbox"/> Suicide <input type="checkbox"/> Homicide <input type="checkbox"/> Pending investigation <input type="checkbox"/> Could not be determined			
33a. Date of Injury (Mo/Day/Year)		33b. Time of Injury	
33c. Place of Injury (e.g., Decedent's home, construction site, restaurant, wooded area)		33d. Injury at Work? <input type="checkbox"/> Yes <input type="checkbox"/> No	
33e. Location of Injury (Street and Number or Rural Route Number, City or Town, State)			
33f. Describe How Injury Occurred:			
33g. If Transportation Injury, Specify: <input type="checkbox"/> Driver/Operator <input type="checkbox"/> Pedestrian <input type="checkbox"/> Passenger <input type="checkbox"/> Other			

HEA 3724 Rev. 5/1/07

I HEREBY CERTIFY THIS
DOCUMENT IS AN EXACT
COPY OF THE RECORD ON FILE WITH
THE OHIO DEPARTMENT OF HEALTH.

MR 28 11 01 27 11

[Signature]
DEBBIE MINER, LOCAL REGISTRAR
OFFICE OF VITAL STATISTICS
WITNESS MY SIGNATURE & SEAL